

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Shasta)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
TIMOTHY LEE FLANAGAN,  
  
Defendant and Appellant.

C064281  
  
(Super. Ct. Nos.  
09F5614, 09F5290,  
09F6691)

This appeal is brought pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

Defendant Timothy Lee Flanagan was facing numerous charges in Shasta Superior Court case Nos. 09F5614, 09F5290, and 09F6691, consolidated on the People's motion without objection.

Pursuant to a bargain, defendant pled guilty to six counts and admitted a strike in exchange for dismissal of all other counts and a stipulated 20-year sentence. Defendant admitted he committed a commercial burglary on June 6, 2009; two "hot" burglaries—residential burglaries with occupants present—on July 11 and July 13, 2009; grand theft of a firearm on July 4, 2009; petty theft with a prior on July 15, 2009; and possession

by a felon of a firearm on July 16, 2009; and admitted a robbery strike from 1994. (Pen. Code, §§ 459, 487, subd. (d), 666, 667, subds. (b)-(i), 1170.12, 12021, subd. (a)(1).) The factual basis for the plea was provided by police reports.

The trial court sentenced defendant to 20 years in prison in accordance with the plea bargain.

The trial court initially awarded defendant presentence credit of 155 actual days and 76 conduct days. But because defendant's "hot" residential burglary convictions are "violent" felonies, he was limited to accumulating 15 percent time credits, and the trial court later reduced his conduct credits to 23 days. (Pen. Code, §§ 667.5, subd. (c)(21), 2933.1.) Those "violent" felonies also disqualify defendant from the more generous conduct credit formula recently enacted. (Pen. Code, §§ 667.5, subd. (c)(21), 4019, subds. (b)(2) & (c)(2).) Therefore we need not consider in this case whether that new formula applies retroactively.

Defendant timely filed a notice of appeal, and obtained a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. Having

undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

**DISPOSITION**

The judgment is affirmed.

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RAYE, J.

We concur:

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BLEASE, Acting P. J.

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MAURO, J.